

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

CARLOS E. GUTIERREZ

PLAINTIFF

v.

Civil No. 05-5083

JERAH KERN, in her capacity as
Personal Representative for the
Estate of Wesley Kern

DEFENDANT

AMENDED ORDER

On October 24, 2006, the plaintiff filed a motion to compel discovery (Doc. 50). In his motion to compel, plaintiff indicates he propounded discovery to the defendant on February 15, 2006, and the defendant failed to respond to the requests.

On October 25, 2006, defendant filed a response to the motion to compel (Doc. 51). In the response, defendant notes that no discovery requests were ever served on Wesley Kern by the plaintiff.

The order earlier entered by the court granting the motion to compel is hereby set aside (Doc. 53). The order was entered based on plaintiff's assertion that defendant had failed to respond to discovery requests in a timely manner. The court notes the motion to compel was not accompanied by a copy of the discovery requests allegedly served on defendant Wesley Kern. The motion to compel is denied.

IT IS SO ORDERED this 25th day of October 2006.

/s/ Beverly Stites Jones
UNITED STATES MAGISTRATE JUDGE